

BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – April 18, 2017

The Regular Meeting of the Borough Council of Washington, Warren County, New Jersey was held in the Council Chambers of Borough Hall at 7:00 pm.

Mayor Higgins read the following statement into the record:

“The requirements of the ‘Open Public Meetings Law, P.L. 1975, Chapter 231’ have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and Express-Times and posted on the Bulletin Board of Borough Hall stating the time, place and purpose of the meeting as required by law.”

Mayor Higgins led everyone in the flag salute.

Roll Call: Heinrich, Higgins, Jones, Klimko, Noone (7:02), Thompson, Valle

Absent: None

Also Present: Ann Kilduff, Borough Clerk; Matthew Hall, Borough Manager; and Tara St. Angelo, Borough Attorney

PROCLAMATION

Mayor Higgins presented Rabbi Kresefsky with a proclamation observing May 4, 2017 as the National Day of Prayer in Washington Borough and read the proclamation for the audience.

MINUTES

Budget Meeting Minutes of March 7, 2017

A motion was made by Heinrich, seconded by Valle to approve the Budget Meeting minutes of March 7, 2017.

Ayes: 7; Nays: 0; Abstain: 0

Motion Carried

AUDIENCE

Mayor Higgins opened the audience portion for remarks, petitions, statements and testimony from guests.

Walt Tutka, involved with the National Day of Prayer Proclamation

W. Tutka gave a brief history of the National Day of Prayer Proclamation.

Gilbert Andwati, 51 W. Church Street

G. Andwati spoke to Council regarding a Hope for the Hurt campaign, helping children with depression, anxiety, those bullied or suicidal. M. Hall with work with G. Andwati.

Hearing no further comments, a motion was made by Heinrich, seconded by Klimko, to close the audience portion of the meeting.

Ayes: 7 Nays: 0

Motion Carried

REPORTS

A motion was made by Noone, seconded by Valle, to receive and file the following reports:

1. Washington Township Police Department – Press Release for April 2, 2017
2. DPW – Monthly Report for January
3. Recreation Director – Monthly Report for March
4. Board of Health – Monthly Report for March
5. Municipal Court – Monthly Report for March

Ayes: 7 Nays: 0

Motion Carried

COMMITTEE REPORTS

Sewer Committee - Deputy Mayor Heinrich stated there will be a meeting next week.

Senior Advisory Committee – Deputy Mayor Heinrich stated registration for the River Lady Cruise will be ending this week and there are approximately thirty people currently registered.

Planning Board – Mayor Higgins stated the Planning Board meeting was cancelled due to lack of applications.

Business Improvement District – Mayor Higgins stated the BID was not scheduled to meet this month as they meet every other month.

Recreation Commission – Councilwoman Klimko had nothing to report due to lack of quorum at the last meeting.

Streets Committee – Councilwoman Klimko stated seventeen streets are scheduled to be tarred and chipped and the others on the list will be milled and paved. Roadwork will begin May 22nd. The permit for the Midblock Crossing has been received. M. Hall gave an update on the bid for the Midblock Crossing.

ORDINANCES

Ordinance 2017-01 - Ordinance of the Borough of Washington, County of Warren, State of New Jersey Creating Chapter _____ of the Code of the Borough of Washington Entitled “Unified Electronic Reporting System for Dealers in Precious Metals and Other Secondhand Goods (Introduction)”

ORDINANCE #2017-01

**ORDINANCE OF THE BOROUGH OF WASHINGTON, COUNTY OF WARREN,
STATE OF NEW JERSEY CREATING CHAPTER ____ OF THE CODE OF
THE BOROUGH OF WASHINGTON ENTITLED “UNIFIED ELECTRONIC REPORTING
SYSTEM FOR DEALERS IN PRECIOUS METALS AND OTHER SECONDHAND GOODS”**

§__-1 Purpose and Intent

The purpose and intent of this chapter is to assist law enforcement officials and victims of crime in recovering stolen precious metals and certain other secondhand goods as defined herein by requiring minimum identification, reporting, maintenance and distribution criteria for licensed dealers in these goods.

No person shall use, exercise, or carry on the business, trade, or occupation of the buying, selling, or pawning of precious metals or other secondhand goods without complying with the requirements of this chapter in the exact manner described herein.

§__-2 Definitions

“ACCEPTABLE IDENTIFICATION” means a current valid New Jersey Driver’s License or Identification Card, a current valid photo driver’s license issued by another US state, a valid United States Passport, or other verifiable US Government issued identification, which will be recorded on the receipt retained by the dealer and subsequently forwarded to the local police department on request.

“DEALER” means any person, partnership, limited liability company, corporation, or other entity, who either wholly or in part, engages in or operates any of the following trades or businesses: the buying for purposes of resale of precious metals, jewelry comprised of any precious metal or precious stone or gemstone, or other secondhand goods as defined herein; pawnbrokers as defined herein; itinerant business as defined herein. For the purpose of this ordinance, transient buyers, as defined herein, are subject to the same licensing and reporting requirements as any other dealers.

“ITINERANT BUSINESS” means a dealer who conducts business intermittently within the municipality or at varying locations.

“MUNICIPAL CLERK” means the statutory officer whose duties are defined in N.J.S.A. 40A:9-133 and may refer to the duly appointed clerk of the “city,” “town,” “township,” “village,” or “borough.”

“PAWNBROKER” means any person, entity, partnership, association or corporation: lending money on deposit or pledge of personal property, other than choses in action, securities, or printed evidences of indebtedness; purchasing personal property on condition of selling it back at a stipulated price; or doing business lending money on goods, wares or merchandise pledged or deposited as collateral security.

“PRECIOUS METALS” means gold, silver, platinum, palladium, and their alloys as defined in N.J.S.A. 51:5-1 et seq. and N.J.S.A. 51:6-1 et seq.

“PRECIOUS STONE OR GEMSTONE” means any of several gems including the diamond, emerald ruby, and sapphire that historically had a high economic value because of rarity or appearance.

“PUBLIC” means individuals and retail sellers, not to include wholesale transactions or transactions between other merchants.

“REPORTABLE TRANSACTION” means every transaction conducted between a dealer and a member of the public in which precious metals, jewelry, or any other secondhand goods as defined herein are purchased or pawned.

“SECONDHAND GOODS” means gold, silver, platinum or other precious metals, jewelry comprised of any precious metal and/or precious stone or gemstones, coins, gemstones, gift cards, any tools, cellular phones, GPS devices, computers, computer hardware, television sets, handheld electronics, I-pods, game cartridges, game systems, DVD's, CD's, cameras and camera equipment. For the purpose of this ordinance, secondhand goods shall not include goods transacted in the following manner: i) judicial sales or sales by executors or administrators; ii) occasional or auction sales of household goods sold from private homes; iii) auctions or real estate; iv) the occasional sale, purchase, or exchange of coins or stamps by a person at his permanent residence or in any municipally owned building who is engaged in the hobby of collecting coins or stamps and who does not solicit the sale, purchase, or exchange of such coins or stamps to or from the general public by billboard, sign, handbill, newspaper, magazine, radio, television, or other form of printed or electronic advertising.

“SELLER” means a member of the public who sells or pawns used goods such as precious metal, jewelry comprised of precious metal or precious stone or gemstone, or other secondhand goods to a dealer.

“TRANSIENT BUYER” means a dealer, as defined herein, who has not been in a registered retail business continuously for at least six (6) months at any address in the municipality where the Dealer is required to register or who intends to close out or discontinue all retail business within six (6) months.

§__-3 License Requirement for dealers

No person, partnership, limited liability company, corporation, or other entity shall engage in the business of buying, selling, or pawning of precious metals or other secondhand goods, as defined above, within the jurisdiction of the municipality, without having first obtained a license therefore from the Municipal Clerk, which license shall bear a number issued by the Municipal Clerk. The application for a license to the Municipal Clerk shall set forth the name, date of birth, and address of the dealer, whether or not he or she is a citizen of the United States, and whether or not he or she has ever been convicted of any crime(s), disorderly persons offense(s), or municipal ordinance violation(s), and the date(s) thereof. Advertising in any print or electronic media or by sign that any of those articles or secondhand goods referred to in § 2 above are being bought in any location within the municipality shall constitute engaging in business as a dealer of secondhand goods for purposes of this chapter. No person, partnership, limited liability company, corporation or other entity shall place or cause to be placed any advertisement for purchase of such articles or goods without stating in the advertising the license number issued to a person or entity by the municipality. In any print advertisement, the license number shall appear in type no smaller than eight point in the lower-right-hand corner of the advertisement. In any advertisement in electronic media, the license number shall be visually or audibly stated. Failure to state or indicate the license number shall be a violation of this chapter and shall be subject to the penalties established in § 9.

§__-4 Application process for dealers; approval or denial

- A) Upon receipt of an application completed pursuant to this chapter, the Municipal Clerk shall refer such application to the Chief of Police, who shall make an investigation of the prospective licensee, pursuant

to this chapter for the purpose of determining the suitability of the applicant for licensing. The investigation shall include, but shall not be limited to the following:

- 1) The experience of the applicant in the business of purchase and sale of those articles or goods referred to in § 2 above, although nothing in this section shall be construed to warrant denial of a license solely on the basis of lack of experience;
 - 2) The reputation of the applicant for fair dealing in the community, which shall be made among credible sources, which sources shall be disclosed to the applicant in the event of a denial of any license;
 - 3) Any criminal record of the applicant including any past convictions for any crime(s), disorderly persons offense(s), or municipal ordinance violation(s) within this or any other jurisdiction. The Chief of Police may, as part of the application process, require a fingerprint criminal background check through the Federal Bureau of Investigation, Criminal Justice Information Services Division, which may require an additional fee from the applicant.
 - 4) The type of operation contemplated to be conducted by the applicant, particularly whether the business is to be operated from a fixed location, whether it is to be conducted from a location primarily devoted to the purchase and sale of precious metal or other secondhand goods, and other factors bearing on whether the licensed business will be of a fixed and permanent nature. This section shall not be construed to require denial of any license solely on the grounds that the business is not from a fixed location or that the applicant is a transient buyer or itinerant business, however applicants who fall under the category of a transient buyer or itinerant business must state with specificity the license application the business address where transaction records required by § 6(D) of this chapter will be stored as well as the location where purchased goods will be retained during the mandatory inspection period required under § 6(A).
- B) The Chief of Police shall complete any investigation pursuant to this chapter within thirty (30) days of the submission of the application to the Municipal Clerk, fully completed by the applicant. If a criminal record check has been requested within the thirty-day period, and has not been received by the Chief of Police within that period, the Chief of Police may, if all other factors are satisfactory, recommend a conditional issuance of the license subject to the finding regarding criminal record.
- C) The Chief of Police shall, upon completion of the investigation, recommend “grant” or “denial” of the license to the Municipal Clerk, who shall grant or deny the license. Any recommendation of the Chief of Police shall be in writing and, in the case of a recommendation of denial, shall state fully and specifically the reasons for said recommendation. If the Municipal Clerk accepts the recommendation for the Chief of Police to deny any license, the applicant shall be notified in writing within ten (10) days of such denial and the clerk shall forward to the applicant a statement of the reason or reasons for such denial.

- D) Grounds for recommending denial of license may include reliable information indicating that the applicant has in the past engaged in fraudulent or deceptive business practices in a business identical to or similar to a dealer in secondhand goods. A license may be denied if the investigation reveals a conviction of the applicant or any of its principal officers or employees of any crime(s), disorderly persons offense(s) in which deceit or misrepresentation is an element; or any conviction of any crime(s), disorderly persons offense involving theft or the receiving before the fact, after the fact, or a co-conspirator; or any prior municipal ordinance violation(s) by the applicant or any of its principal officers or employees in this or any other jurisdiction. A license may be denied if the applicant fails to demonstrate an ability to satisfactorily comply with the electronic reporting requirements specified in § 5, the retention and inspection requirements of § 6, or any other portion of this chapter. Upon receipt of the recommendation of the Chief of Police, the Municipal Clerk shall issue or deny the license accordingly, contingent upon the receipt of a bond as required by § 8 of this chapter.
- E) Whenever any application for a permit is denied, the applicant shall be entitled to a hearing before a three-person panel appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such denial. Any applicant exercising the right to appeal must file a written notice of appeal within ten (10) days of receiving written notice of denial of a license to act as a dealer of secondhand goods.
- F) No license shall be assignable by the dealer.

§__-5 Identification of seller; recordkeeping requirements for dealers

For every reportable transaction between a dealer and the public, the dealer shall be required to do as follows:

- A) Require of each person selling or pawning precious metals or other secondhand goods, acceptable identification as defined above in § 2
- B) Require each seller to execute a “Declaration of Ownership,” which shall contain the following certification: *“My signature confirms that I am the sole legal owner of and am legally authorized to sell the goods being sold. By signing below I certify that I did not obtain and do not possess the identified good through unlawful means. I am the full age of eighteen years and the identification presented is valid and correct.”*
- C) Record and issue to each person selling or pawning such goods on a sequentially numbered receipt:
- the name, address, and telephone number of the purchaser, including the clerk or employee of the licensee making the purchase;
 - the name, address, date of birth, and telephone number of the seller or sellers;
 - a photographed record of the seller in a format acceptable to the Chief of Police, along with a physical description of the seller, including height and weight (approximate), hair color, eye color, facial hair, if any, etc.;

- d. a photographed record of the seller's presented acceptable identification, as set forth in § 2, in a format acceptable by the Chief of Police;
 - e. a photographed record of all items sold in a format acceptable by the Chief of Police. When photographing, all items must be positioned in a manner that makes them readily and easily identifiable;
 - f. the receipt number;
 - g. a detailed, legible description of the item(s) and the manufacturer and model of the item(s) if known; in the case of jewelry, the descriptions must include style, length, color, design, and stones, if any; any identifying marks, including numbers, dates, sizes, shapes, initials, names, monograms, social security numbers engraved thereon, serial numbers, series numbers, or any other information, which sets apart the particular object from others of like kind;
 - h. the price paid for the purchase or pawn of the item(s);
 - i. if precious metals, the net weight in terms of pounds Troy, pennyweight (Troy) or kilograms/grams; fineness in terms of karats for gold, and sterling or coin for silver, in accordance with N.J.S.A. 51:5-1, N.J.S.A. 51:6-1 et seq.;
 - j. the time and date of the transaction.
- D) The information outlined in subsection (C) above, must additionally be electronically documented through the use of an electronic database system authorized by the Chief of Police. Installation and training in this software will be made mandatory as of the effective date of this chapter and licensing will be conditional upon compliance with proper use of the system as described herein. These records shall be subject to the inspection of any authorized police officer or any sworn law enforcement officer acting in the performance of their duty as set forth in subsection (F) below. Through the use of applicably required computer equipment, and using the electronic format approved by the Chief of Police, every dealer shall enter all reportable transactions into the electronic database by the end of the close of business on the same date as the purchase or receipt of property for pawn or consignment. The information entered must contain all pertinent information outlined in subsection (C) above.
- E) In the event of a database failure, or a dealer's computer equipment malfunction, all transaction information is required to be submitted on paper forms approved by the Chief of Police within twenty-four (24) hours from the date of purchase. In the event that paper forms are used, the dealer is responsible to enter all transaction information set forth in subsection (C) above in to the database as soon as possible upon the dealer's equipment being repaired or replaced, or the database coming back into service. Failure by the dealer to properly maintain computer equipment in a reasonable fashion, or failure by the dealer to replace faulty computer equipment, may result in the dealer being cited for a violation of this chapter and subsequently being subject to the penalties for doing so including revocation of the dealer's license as described in § 6.

- F) It shall be the requisite duty of every dealer, and of every person in the dealer's employ, to admit to the premises during business hours any member of the police department to examine any database, book, ledger, or any other record on the premises relating to the reportable transactions of the precious metals or other secondhand goods, as well as the articles purchase or received and, where necessary, relinquish custody of the those articles as provided in § 6. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the address where these records and articles will be stored.

§__-6 Retention; revocation; other restrictions

- A) All precious metals and other secondhand goods purchased, received for pawn, or received for consignment as described above, are to be made available for inspection by the Chief of Police or designee thereof at the designated business address for a period of at least fourteen (14) calendar days from the date the transaction information is actually reported to the Chief of Police in the approved manner described above in § 5 except for jewelry and precious metals, which must be maintained for at least ten (10) business days or for the statutory period provide in N.J.S.A. 2C:21-36(d). All other secondhand goods subject to inspection must remain in the same condition as when purchased or received for pawn and shall not be sold, disposed of, changed, or modified by the dealer until the fourteen-day retention period has expired. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the location where the purchased item(s) are being sold.
- B) Upon probable cause that goods held by a dealer are stolen, and providing that the seller signed the mandatory statement required by § 5(B) upon the sale of those goods, a law enforcement officer with jurisdiction should charge the seller with theft by deception under N.J.S.A. 2C:20-4 on behalf of the dealer, who shall be considered the "victim" of the offense for the purposes of N.J.S.A. 2C:43-3. The officer shall seize the goods, provide the dealer with a receipt, and issue a criminal complaint against the seller for theft by deception and any other criminal charges for which the officer has probable cause that the seller has committed. If convicted of theft by deception and if so found by an order of a court f valid jurisdiction, the seller will be responsible for providing restitution to the dealer under N.J.S.A. 2C:44-2 for the amount paid by the dealer to the seller for the stolen goods.
- C) If market conditions would create a hardship on the dealer by holding precious metals or other secondhand goods for such period, the dealer may present the property to the Chief of Police in order that it may be photographed and, if deemed necessary by the Chief of Police, an investigation may be implemented. The Chief of Police shall have the authority to grant the dealer a waiver of the requirement under this section.
- D) In addition to all other reporting requirements, every dealer shall maintain for at least five years, a written record of all purchases of precious metals and other secondhand goods in the form prescribed in § 5(C).
- E) No dealer shall purchase any item covered by this chapter from any person under the age of 18 or in the absence of providing prior notification of such purchase to the Chief of Police or business designee identifying the individual from whom such purchase is to be made and the item to be purchased.

- F) Suspension. The Chief of Police or a designee thereof is hereby empowered to temporarily suspend for cause any dealer's license and rights to operate thereunder. This penalty shall be in addition to any fines and penalties the dealer may incur pursuant to § 9 of this chapter.
- i. Grounds for suspension. The following shall constitute grounds for suspension: violation of any provisions of this chapter, including failure to comply with any training or fees associated with the electronic database software system in use by the municipality; violation of any other statute, regulation, or local ordinance; or any other illegal, improper, or fraudulent activity.
 - ii. Procedure for suspension. Upon determination that appropriate grounds exist and that a suspension is warranted, the Chief of Police or a designee thereof shall issue a written notice of suspension of license to the offending dealer and to the Municipal Clerk, which shall set forth the grounds for the suspension and notify the dealer of his or her right to appeal pursuant to subsection (H). A temporary suspension shall issue immediately, pending the outcome of any appeal taken. Suspended dealers must immediately cease engaging in the business of purchasing for resale, receiving for pawn, and/or selling of precious metals and/or other secondhand goods in the municipality until reinstatement.
 - iii. Reinstatement. Suspended dealers may be reinstated only when the grounds leading to the suspension have, in the determination of the Chief of Police or the Chief's designee, been cured, corrected, or appropriately rectified; or if reinstatement is deemed appropriate by the three-person panel appointed by the Chief of Police, upon the timely filing of an appeal as provided in subsection (H).
- G) Revocation. A license issued under this chapter may be revoked by the Municipal Clerk upon written recommendation from the Chief of Police or the Chief's designee that the dealer is no longer qualified, capable or competent to comply with the requirements of this chapter. This penalty shall be in addition to any fines and penalties the dealer may incur under § 9.
- i. Grounds for revocation. The following shall constitute grounds for revocation: a third violation under this chapter; a second violation under this chapter less than one year after an earlier violation under this chapter; conviction for a criminal offense within this or any jurisdiction; or multiple violations of any other regulations or local ordinances within this or any jurisdiction.
 - ii. Procedure for revocation. Upon a determination that appropriate grounds exist and that a revocation is warranted, the Chief of Police or the Chief's designee shall so report to the Municipal Clerk in writing. A temporary suspension will immediately and automatically issue, if one is not already in effect, pending the outcome of the charge. A three-person panel, appointed by the Chief of Police, shall review the stated grounds for revocation and the panel shall issue an appropriate disposition of either suspension, revocation, or reinstatement. If the panel determines that revocation is the appropriate disposition, it shall set forth the grounds for the same in writing in the form of a notice of revocation, which shall be provided to the dealer.

The notice shall advise the dealer of the right to appeal. If the panel determines that suspension is the appropriate disposition, it shall provide the dealer with a notice of suspension that shall advise the dealer of the right to appeal. Following revocation, the dealer must relinquish his or her license and must immediately and indefinitely cease operating as a dealer of precious metals or other secondhand goods within the municipality.

- H) Appeal. Any applicant wishing to appeal an issuance of a suspension or revocation shall be entitled to a hearing before a three-person panel, appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such suspension or revocation. Any applicant exercising the right to appeal must file a written notice of appeal within ten (10) days of receiving written notice of revocation or suspension of license.
- I) A dealer shall have the right to change the location of the licensed business, provided that he or she notifies the Municipal Clerk, in writing, of the street address of said new location.

§__-7 period of license validity

A license is valid for a one-year period from the date of its issuance. Any fees associated with the mandatory electronic database system shall be the sole responsibility of the applicant.

§__-8 Violations and penalties

Violation of any provision of this chapter by any dealer shall, upon conviction thereof, be punished by a fine not in excess of the limitations of N.J.S.A. 40:49-5 or by a term of imprisonment or a period of community service not exceeding ninety (90) days in addition to a suspension or revocation of operating license as provided in § 6(F) and § 6(G) above. Each and every violation shall be considered a separate violation. Each violation shall result in an additional suspension period. Any person who is found guilty of violating the provision of this chapter within one year of the date of a previous violation and who was fined for the previous violation may be sentenced by the court to an additional fine as a repeat offender and, in addition, may be subject to revocation proceedings as provided in § 6(G). The additional fine imposed as a repeat offender shall not be less than the minimum or exceed the maximum fine provided herein, and same shall be calculated separately from the fine imposed for the violation of this chapter.

§__-9 Time limit for conformance; repealer; severability

- A) Any person, partnership, limited liability company, corporation, or other entity engaging in the business of a pawnbroker, or a dealer in precious metals or other secondhand goods shall conform to the provisions of this chapter within ninety (90) days following the effective date of this chapter.
- B) All ordinances or parts of ordinances inconsistent herewith are hereby repealed.
- C) Nothing contained in this chapter is intended to replace any pre-existing statutory requirement governing pawnbrokers, as in N.J.S.A. 45:22-1 et seq., the sale of precious metals as in N.J.S.A. 51:6A-1 et seq., the sale of secondhand jewelry as in N.J.S.A. 2C:21-36 et seq., or any other statutory provision regarding any subject matter discussed herein.

- D) If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

A motion was made by Heinrich, seconded by Klimko, to introduce Ordinance 2017-01.

ROLL CALL: Heinrich, Klimko, Jones, Noone, Thompson, Valle, Higgins
Ayes: 7 Nays: 0
Motion Carried

The Clerk read Ordinance 2017-01 by title only. A motion was made by Heinrich, seconded by Klimko, to introduce Ordinance 2017-01 on first reading.

ROLL CALL: Heinrich, Klimko, Jones, Noone, Thompson, Valle, Higgins
Ayes: 7 Nays: 0
Motion Carried

The Clerk stated the public hearing of Ordinance 2017-01 will be held on May 16, 2017 and the advertisement of the public hearing will be published in the Star Gazette on April 28, 2017.

A motion was made by Heinrich, seconded by Klimko, to approve the advertisement of the public hearing.

Ayes: 7 Nays: 0
Motion Carried

Ordinance 2017-04 - Ordinance Amending the Following Chapters of the General Ordinances of the Borough of Washington, County of Warren, and the State of New Jersey: Chapter 55 Entitled "Littering"; Chapter 59 Entitled "Nuisances, Public Health"; Chapter 91 Entitled "Weeds and Obnoxious Growths"; and Adding Chapters Entitled "Vehicles, Abandoned and Inoperable" and "Vandalism, Graffiti, and Other Property Offenses: Malicious Damage to Property or Persons Prohibited" (Second Reading, Public Hearing and Adoption)

**BOROUGH OF WASHINGTON
WARREN COUNTY, NEW JERSEY
ORDINANCE # 2017-04**

**ORDINANCE AMENDING THE FOLLOWING CHAPTERS OF THE GENERAL
ORDINANCES OF THE BOROUGH OF WASHINGTON, COUNTY OF WARREN,
AND THE STATE OF NEW JERSEY:
CHAPTER 55 ENTITLED "LITTERING;"
CHAPTER 59 ENTITLED "NUISANCES, PUBLIC HEALTH;"
CHAPTER 91 ENTITLED "WEEDS AND OBNOXIOUS GROWTHS;"**

**AND ADDING CHAPTERS ENTITLED “VEHICLES, ABANDONED AND INOPERABLE” AND
“VANDALISM, GRAFFITI, AND OTHER PROPERTY OFFENSES; MALICIOUS DAMAGE TO
PROPERTY OR PERSONS PROHIBITED.”**

WHEREAS, the Mayor and Council of the Borough of Washington desires to protect and promote the health of the residents of the Borough; and

WHEREAS, doing so requires amending and supplementing the following chapters of the Code of the Borough of Washington:

- Chapter 55 regarding littering
- Chapter 59 regarding nuisances
- Chapter 91 regarding weeds and noxious plants; and

WHEREAS, the Mayor and Council have also determined that additional regulation of the storage or keeping of abandoned and inoperable motor vehicles will promote safety of Borough residents;

WHEREAS, the Mayor and Council have also determined that additional regulation preventing vandalism and graffiti pursuant to the Municipal Beautification Act (N.J.S.A. 40:48-2.59) will promote safety of Borough residents; and

WHEREAS, N.J.S.A. 40:48-2 permits the Borough to pass, alter, and amend ordinances, rules, or regulations in order to preserve the public health, safety, and welfare; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Washington, the County of Warren, as follows:

SECTION 1. Chapter 55 of the Code of the Borough of Washington entitled “Littering” is hereby amended and supplemented as follows;

§ 55-1. Definitions.

A. For the purposes of this chapter, the following words shall have the following meanings:

AUTHORIZED PRIVATE RECEPTACLE

A litter storage and collection receptacle provided by the owner or occupier of private premises.

BOROUGH

The Borough of Washington, in the County of Warren and State of New Jersey.

COMMERCIAL HANDBILL

Any printed or written matter, sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copy of any matter of literature:

(1) Which advertises for sale any merchandise, product, commodity or thing;

(2) Which directs attention to any business or mercantile or commercial establishment or any activity for the purpose of either directly or indirectly promoting the interest thereof by sale;

(3) Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit, but the terms of this subsection shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind; or

(4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the profit, benefit or gain of any person so engaged as advertiser or distributor.

LITTER

Any substance, waste material, garbage, refuse, or rubbish which has been discarded, whether made of aluminum, glass, plastic, rubber, paper or any natural or synthetic material, or any combination thereof, including but not limited to any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extracting processes, logging, sawmilling, farming or manufacturing.

NEWSPAPER

Any newspaper of general circulation as defined by general law; any newspaper duly entered with the Post Office Department of the United States in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

NONCOMMERCIAL HANDBILL

Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a "commercial handbill" or "newspaper."

PARK

A park, reservation, playground, recreation center or any other public area of the Borough or other public entity devoted to active or passive recreation by the public.

§ 55-2. Litter in public places.

No person shall throw or deposit litter in or upon any street, road, sidewalk or other public place within the Borough, except in public receptacles or authorized private receptacles for collection.

§ 55-3. Manner of placement of litter in receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, road, alley or other public place or upon private property.

§ 55-4. Depositing of litter into public places; sidewalk maintenance.

No person shall sweep into or deposit in any gutter, street, parking lot or public place within the Borough the accumulation of litter from any building or lawn or from any public or private sidewalk or driveway.

It shall be the duty, severally and equally, of the owner, lessee, tenant, occupant or person in charge of any structure to keep and cause to be kept the sidewalk, curb and gutter abutting the structure free from obstruction or nuisances of every kind and to keep sidewalks, areaways, backyards, courts and alleys free from litter. No person shall sweep into or deposit into any gutter, street, catch basin or other public place any accumulation of litter from any public or private sidewalk or driveway. Every person who owns or occupies property shall keep the sidewalk, curb and gutter in front and in rear of his or her premises free of litter. All sweepings shall be collected and properly containerized for disposal.

§ 55-5. ***Responsibility of Merchants*** sidewalk

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, parking lot or public place within the Borough the accumulation of litter from any building or lot or from any public or private sidewalk, driveway or parking lot. Persons owning or occupying places of business within the Borough shall keep the sidewalk in front of their business premises free of litter.

§ 55-6. Throwing of litter from vehicles; litter blown from vehicles.

A. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the Borough or upon private property.

B. No person shall drive or move any truck or other vehicle within the Borough unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

C. No person shall drive or move any vehicle or truck within the Town, the wheels or tires of which carry onto or which deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind.

§ 55-7. ***Public*** Distribution or sale of handbills and newspapers; posting of notices

A. No person shall throw or deposit any commercial or noncommercial handbill or newspaper in or upon any sidewalk, street or other public place within the Borough, nor shall any person distribute or sell any commercial handbill or newspaper in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the Borough for any person to hand out or distribute without charge to the receiver thereof any noncommercial handbill or newspaper to any person willing to accept it.

B. No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamp post, public utility pole, shade tree or upon any public structure or building, except as may be authorized or required by law.

§ 55-8. Placement of handbills or newspapers on vehicles.

No person shall throw or deposit any commercial or noncommercial handbill or newspaper in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or

distribute without charge to the receiver thereof a noncommercial handbill or newspaper to any occupant of a vehicle who is willing to accept it.

§ 55-9. Placement of handbills or newspapers on vacant premises.

No person shall throw or deposit any commercial or noncommercial handbill or newspaper in or upon any private premises which are temporarily or continuously uninhabited or vacant. Section 55-11B shall apply hereto.

§ 55-10. Placement of handbills or newspapers on posted property.

No person shall throw, deposit or distribute any commercial or noncommercial handbill or newspaper upon any private premises if requested by anyone thereon not to do so or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Advertisements" or "No Peddlers or Agents," or any similar notice indicating in any manner that the owner, occupant or tenant of the premises does not desire to be molested or have his right of privacy disturbed or to have any such handbills or newspapers left upon such premises. Section 55-11B shall apply hereto.

§ 55-11. Placement of handbills or newspapers on inhabited private premises.

A. No person shall throw, deposit or distribute any commercial or noncommercial handbill or newspaper in or upon private premises which are inhabited, except by handing or transmitting the same directly to the owner, occupant, tenant or other person then present in or upon such private premises; provided, however, that in the case of inhabited private premises which are not posted as provided in this chapter, such person, unless requested by the owner, occupant or tenant on the premises not to do so, may place or deposit any such handbill or newspaper in or upon such inhabited private premises if the same is so placed or deposited as to secure or prevent the same from being blown about such premises or sidewalks, streets or other public places and the same is not placed upon the surface of the ground. Mailboxes may not be used when so prohibited by federal postal law or regulations, but private boxes may be used when so provided.

B. The provisions of this section shall not apply to the distribution of mail by the United States or its agents or legally authorized deliverers.

§ 55-12. Litter on private property.

No person shall throw or deposit litter on any occupied or unoccupied private property within the Borough, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

§ 55-13. Owner to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 55-14. Litter on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the Borough, whether owned by such person or not.

§55-15. Construction Debris

A. It shall be unlawful for any owner, agent, or contractor in charge of a construction or demolition site to permit the accumulation of litter before, during or after completion of any construction or demolition project. It shall be the duty of the owner, agent or contractor in charge of a construction site to furnish containers adequate to accommodate debris or trash at construction areas and to maintain and empty the receptacles in such a manner and with such frequency as to prevent spillage of refuse.

B. It shall be unlawful for any owner, agent, or contractor in charge of a construction or demolition site to permit land to be covered with or contain refuse and debris resulting from construction activities or the demolition of buildings, which refuse or debris has remained on the land for more than 30 days after the completion of construction or demolition. Salvaged building materials neatly stored on the owner's premises shall not be deemed refuse or debris.

§ 55-16. Enforcement.

Enforcement of the within chapter shall be made by regular and special officers of the police agency servicing the Borough of Washington, the Zoning Officer of the Borough of Washington, or any other officer authorized by the Board of Health to enforce this code and chapter; or upon complaint of any citizen or any authorized county or state health department or agency.

§ 55-17. Violations and penalties.

Any person who shall violate this chapter shall, upon conviction thereof, pay a fine not exceeding \$500 or be imprisoned in the county jail for a term not exceeding 90 days, or both, for each offense, in the discretion of the Court. Each day said offense continues shall constitute a separate offense.

§ 55-18. Abatement of offenses; removal by Borough and collection of costs.

A. Any person authorized to enforce the provisions of this chapter is authorized to notify the owner of any property within the Borough or the agent of such owner to properly dispose of litter located on such owner's property in violation of this chapter. Such notice shall be sent by certified mail, return receipt requested, and/or posted on the property.

B. In the event that the owner or agent fails to comply with such notice within five days after receipt of written notice or five days after notice was posted on the property, the enforcing official shall authorize the removal of said litter. The property owner shall be billed by the Borough for all expenses incurred for the removal of said litter. Failure to pay for billed expenses shall constitute a valid assessment against such lands and shall be duly certified to the governing body, which shall examine the certified and, if found correct, shall cause the cost as shown thereon to be charged against said lands. The amount so charged shall become a lien upon such lands and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lands. If the enforcing official deems the existing condition as an immediate health or safety problem, the removal shall be ordered immediately. If the owner or agent refuses to comply, the Borough shall effect the removal at the expense of the owner.

§ 55-19. Junkyards; exceptions

Nothing in this section shall be constructed to pertain to junk dealers, junkyards, motor vehicle junk dealers, motor vehicle junkyards, wholesale junkyards or wholesale junkyard scavengers duly licensed by the Borough of Washington.

§ 55-20. Litter receptacles required.

A. Litter receptacles and their servicing are required at the following public places which exist in the Borough:

- (1) Buildings held out for use by the public, including schools and government buildings;
- (2) Parks;
- (3) Drive-in restaurants;
- (4) Street vendor locations;
- (5) Construction sites;
- (6) Self-service refreshment areas;
- (7) Gasoline service stations;
- (8) Shopping centers;
- (9) Public parking lots;
- (10) Campgrounds and trailer parks; and
- (11) At special events to which the public is invited, including sporting events, parades, carnivals, circuses, and festivals.

B. The proprietors of these places or the sponsors of these events shall be responsible for providing, removing and servicing the receptacles such that adequate containerization is available.

SECTION 2. Chapter 59 of the Code of the Borough of Washington entitled "Nuisances, Public Health" is hereby amended and supplemented as;

Article I: Adoption of Public Health Nuisance Code of New Jersey

§59-1 Adoption of Code by Reference

A code defining and prohibiting certain matters, things, conditions or acts, and each of them, as a nuisance; prohibiting certain noises or sounds; requiring the proper heating of apartments; prohibiting lease or rental of certain buildings; prohibiting spitting in or upon public buildings, conveyances or sidewalks; authorizing the inspection of premises by an enforcing official; providing for the removal or abatement of certain nuisances and recovery of expenses incurred by the Board of Health in removing or abating such nuisances; and prescribing penalties for violations, is hereby established pursuant to Chapter 188, Laws of 1950. A copy of said code is annexed hereto and made a part hereof without the inclusion of the text thereof herein.

§ 59-2 Title.

The said code established and adopted by this article is described and commonly known as the "Public Health Nuisance Code of New Jersey," 1953 Edition.

§ 59-3 Filing of copies.

Three copies of the said Public Health Nuisance Code of New Jersey have been placed on file in the office of the Clerk upon the introduction of this article and will remain on file there for the use of and examination by the public.

§ 59-4 Violations and penalties.

Any person who violates or neglects to comply with any provision of this article or code established herein or notice issued pursuant thereto shall, upon conviction thereof, be liable to a penalty of not more than \$500 for each violation.

Article II: Public Health, Safety, Welfare and Convenience Nuisances

§ 59-5 Statement of purpose.

The purpose of this article shall be to promote the general health, welfare, safety and convenience of the Borough of Washington and the inhabitants thereof by proscribing certain practices and hazards which are, or may be, nuisances and to permit the appropriate authorities to take appropriate steps to control the practices herein proscribed. The provisions of this article shall be construed as a supplement to the remedies specified in Article I and the code adopted therein, and nothing herein shall be construed so as to repeal Article I of this chapter.

§ 59-6 Definitions.

Wherever the following terms are used in this article, unless otherwise specified, they shall have the following meanings:

BOARD OF HEALTH

The Board of Health of the County of Warren, State of New Jersey.

ENFORCING OFFICIAL

Regular and special officers of the police agency servicing the Borough of Washington, Zoning Officer of the Borough of Washington, the Construction and Building Sub-code Officials of the Borough of Washington, or any other officer authorized by the Board of Health to enforce this code and chapter.

PERSON

Includes an individual, firm, corporation, association, society and partnership and any agent, servant or employee of any of the above.

§ 59-7 Nuisances proscribed.

It shall be unlawful for any person or persons to commit or allow nuisances as hereinafter defined in § 59-8.

§ 59-8 Additional Nuisances enumerated.

The following matters, things, conditions or acts, and each of them, are hereby declared to be a nuisance and injurious to the health, safety, welfare or convenience of the inhabitants of the Borough of Washington:

A. Spitting upon any public sidewalk or upon any part of the interior of any public building or public conveyance.

§ 59-9 Enforcement.

The provisions of this article may be enforced by an Enforcing Official as defined herein, or upon the filing of a complaint in the Municipal Court of the Borough of Washington by any inhabitant of the Borough of Washington, either with or without prior notice to the person committing a violation of this article.

§ 59-10 Violations and penalties.

Any person who violates any provision of this article shall, upon conviction thereof, be liable to a penalty of not more than \$500 or imprisonment for not more than 90 days, or both, for each violation. Each day that said violation continues shall be deemed a separate and distinct violation.

SECTION 3. Chapter 91 of the Code of the Borough of Washington entitled “Weeds and Obnoxious Growths” is hereby amended and supplemented as follows;

§ 91-1. Certain growths declared public nuisances.

A. All weeds over one foot in height, and all vegetable growths which exhale unpleasant or noxious odors or pollen, and all weeds or vegetable growths that may conceal filthy or unhealthy deposits are hereby declared to be public nuisances.

B. The growth, existence, or presence of poison ivy, poison oak or poison sumac within twenty (20) feet of any property line.

§ 91-2. Failure to abate nuisance.

Any owner, lessee or occupant of any property or any agent, servant, representative or person having control of any property who shall allow or permit such a nuisance as defined in §91-1 of this chapter to continue for a period of 10 days after receipt of such notice of violation shall be liable to the penalties as provided in this chapter.

§ 91-3. Cutting by Borough.

In addition to the penalty provided in §91-5 of this chapter, failure to abate such nuisance within the time provided by this chapter shall allow the Municipal Manager to direct the Borough's work force to abate said nuisance. Nothing in this section shall be interpreted to imply that the Borough is obligated to abate the nuisance.

§ 91-4. Costs to become lien.

The Manager shall certify the costs of abatement of the nuisance to the governing body, which shall examine the certificate and, if found correct, will cause the costs shown thereon to be charges against said land, the amount so charged shall forthwith become a lien upon such land and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

§ 91-5. Violations and penalties.

Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$500. If the violations are not corrected or remedied within ten (10) days after the notice pursuant to §91-2, each day thereafter that the prohibited conditions exist shall constitute a separate offense hereunder.

§91-6. Enforcement.

The provisions of this chapter may be enforced by the Zoning Officer of the Borough of Washington.

SECTION 4. A Chapter of the Code of the Borough of Washington entitled “Vehicles, Abandoned and Inoperable” is hereby added as follows:

§ ____-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED MOTOR VEHICLE

A vehicle which has remained on or along the highway or other public property or upon private property without such consent for a period of more than 48 hours or for any period without current license plates.

INOPERATIVE MOTOR VEHICLE

Any motor vehicle incapable of being legally operated or moved under its own power on the public streets and highways of the State of New Jersey.

UNLICENSED MOTOR VEHICLE

Any motor vehicle incapable of being legally driven on the highways of the State of New Jersey or not bearing current license plates or tags or not bearing a current inspection sticker issued by an appropriate licensing authority.

§ ____ -2. License required for open storage.

No person, firm or corporation shall keep any wrecked, dismantled, junked, abandoned or inoperable motor vehicle or any parts thereof in the open upon public or private property unless licensed as a junk shop or junkyard.

§ ____ -3. Storage of inoperable vehicles.

It shall be unlawful for any person to keep or permit the keeping on streets, vacant lots or anywhere on residential property, except in a fully enclosed structure, any motor vehicle, trailer or semitrailer which:

A. Because of mechanical or structural defect or damage is incapable of movement under its own power;

B. Does not display a current or valid registration;

C. For any other reason is not capable of safe and lawful operation over the highways of this state.

§ ____ -4. Repair of vehicles on public streets.

No person, firm or corporation shall use the public streets or highways as a repair shop or to make repairs to vehicles other than emergency repairs.

§ ____ -5. Removal from public streets.

A wrecked, dismantled, junked, abandoned or inoperable motor vehicle may be removed from the public streets or highways when 48 hours' notice has been served upon the registered owner, either in person or by mail to the last known address, to move such vehicle. However, if the vehicle obstructs traffic or is deemed to be a hazard, the police may remove such vehicle without prior notice to the owner.

§ ____ -6. Removal from public property.

A written notice to remove within seven days the wrecked, dismantled, junked, abandoned or inoperable vehicle from public property other than public streets and highways shall be served upon the registered owner thereof, either personally or by certified mail. If the vehicle is not removed within the time allowed by such notice, the police may remove such vehicle.

§ ____ -7. Unlicensed vehicles.

An unlicensed vehicle on public streets or premises not owned or occupied by the owner of the vehicle shall be deemed abandoned and removed immediately.

§ ____ -8. Repossession by owner.

The owner of the removed vehicle may repossess the same at any time prior to sale thereof, upon payment of the costs of removal plus storage charges.

§ ____-9. Disposition of unclaimed vehicles.

Disposition of the vehicle shall be made within the towing company's discretion. The Borough shall notify the registered owner either in person or by mail to the last known address of the address and telephone number of the towing company in possession of the vehicle.

§ ____-10. Waiver of liability.

The Borough shall not be liable for loss or damage during removal, storage, subsequent sale or other disposition.

§ ____-11. Violations and penalties.

Any person who shall violate this chapter shall, upon conviction thereof, pay a fine not exceeding \$500 or be imprisoned in the county jail for a term not exceeding 90 days, or both, for each offense, in the discretion of the Court. Each day said offense continues shall constitute a separate offense.

§ ____-12. Enforcement.

The provisions of this chapter may be enforced by the Zoning Officer of the Borough of Washington or any police officer serving the Borough of Washington.

SECTION 5. A Chapter of the Code of the Borough of Washington entitled "Vandalism, Graffiti, and other Property Offences; Malicious Damage to Property or Persons Prohibited" is hereby added as follows:

§ ____-1. No person shall damage, defoul, commit a nuisance, or disturb public property or the property of another so as to create a hazardous condition. No person shall maliciously destroy, damage or injure any person or property, including and not limited to acts considered "Vandalism", "Graffiti," and / or any other malicious mischief.

§ ____-2. Graffiti Prohibited.

- A. It shall be unlawful for any persons to apply graffiti to any building, structure, tree, shrub, curb, vehicle, or to other personal or real property (public or private) located within the Borough.
- B. Nothing contained within this chapter shall prohibit the enforcement of any other chapter of the Municipal Code of the Borough of Washington.

§ ____-3. Exclusions.

Easily removable markings (chalk or water soluble) on public sidewalks and streets used in connection with traditional children's games, or Borough sponsored events, shall **not** be considered graffiti.

§ ____-4. Section RESERVED.

§ ____-5. Violations and penalties.

Committing an act of graffiti is a violation of this chapter. Violations for committing an act of graffiti shall be charged on a per property or structure basis (one offense for each violation). Violations do not reset over time. Upon conviction, each offense shall have the following penalties applied:

- A. Each person shall be subject to a fine of fifty dollars (\$50.00) for the first offense; one hundred dollars (\$100.00) for the second offense; and one hundred fifty dollars (\$150) for each subsequent offense.
- B. In addition to any fines imposed (or waived), the court shall order the offender to make restitution pursuant to this chapter.
- C. Restitution: Offenders shall make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount (or manner) determined by the court.

D. In lieu (or as part) of the penalties imposed by this section it is strongly recommended that the court order community service. Community service shall be based on the following minimum requirements:

1. Offenders shall perform community service based on their level of conviction as follows
 - i. First Offense: Service sufficient to remove the graffiti and restore the property to its prior condition
 - ii. Second Offense: Service sufficient to remove the graffiti and restore the property to its prior condition plus 10 additional days of community service
 - iii. Third (and subsequent) Offense: Service sufficient to remove the graffiti and restore the property to its prior condition plus 20 additional days of community service
2. Reasonable effort shall be made to assign the offender to a type of community service that is reasonably expected to have the most rehabilitative effect of the offender.
3. The order period of service shall be performed under the supervision of a community service provider approved by the Chief of Police.

§____-6. Enforcement.

The provisions of this chapter may be enforced by the Zoning Officer of the Borough of Washington or any police officer serving the Borough of Washington.

SECTION 6. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 8. This Ordinance shall take effect upon final passage and publication according to law.

A motion was made by Heinrich, seconded by Thompson to introduce on final passage Ordinance 2017-04.

ROLL CALL: Heinrich, Thompson, Jones, Klimko, Noone, Valle, Higgins
Ayes: 7 Nays: 0
Motion Carried

Mayor Higgins opened the public portion of Ordinance 2017-04. Seeing no one, a motion as made by Heinrich, seconded by Kimko, to close the public portion of Ordinance 2017-04.

ROLL CALL: Heinrich, Klimko, Jones, Noone, Thompson, Valle, Higgins
Ayes: 7 Nays: 0
Motion Carried

A motion was made by Heinrich, seconded by Thompson, to adopt Ordinance 2017-04 on second reading.

ROLL CALL: Heinrich, Thompson, Jones, Klimko, Noone, Valle, Higgins

Ayes: 7 Nays: 0

Motion Carried

Ordinance 2017-05 - Ordinance Amending Chapter 3 of the General Ordinances of the Borough of Washington, County of Warren, and the State of New Jersey in Order to Allow for the Appointment of the Code Enforcement Officer as Fire Official (Second Reading, Public Hearing and Adoption)

**BOROUGH OF WASHINGTON
WARREN COUNTY, NEW JERSEY
ORDINANCE #2017-05**

ORDINANCE AMENDING CHAPTER 3 OF THE GENERAL ORDINANCES OF THE BOROUGH OF WASHINGTON, COUNTY OF WARREN, AND THE STATE OF NEW JERSEY IN ORDER TO ALLOW FOR THE APPOINTMENT OF THE CODE ENFORCEMENT OFFICER AS FIRE OFFICIAL

WHEREAS, Chapter 3 of the Code of the Borough of Washington (“Borough Code”) establishes the position of Code Enforcement Officer and the duties assigned therein; and

WHEREAS, Section 42-6 of the Borough Code creates the position of “Fire Official” and designates such position as the head of the Borough’s Bureau of Fire Prevention; and

WHEREAS, N.J.A.C. 5:71-3.2(a) states that a municipal fire official “shall be appointed in the manner provided for in the ordinance establishing the local enforcing agency; and

WHEREAS, Section 42-6 of the Borough Code states that the Fire Official shall be appointed by the Borough Manager; and

WHEREAS, the Mayor and Council have determined that it may be desirable under certain circumstances to appoint the Code Enforcement Officer as the Fire Official; and

WHEREAS, The Borough of Washington wishes to reserve the option to allow the Borough Manager to appoint the Code Enforcement Officer as Fire Official; and

WHEREAS, the Mayor and Council have determined that the combination of duties of the Code Enforcement Official and Fire Official will promote efficiency, cooperation, and an enhanced level of service to Borough residents;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Washington that Chapter 3 of the Code of the Borough of Washington is hereby amended as follows:

§ 3-71 Code Enforcement Officer

The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall be appointed by the Borough Manager. The Code Enforcement Officer shall perform and exercise all of the powers, duties and functions now or hereafter vested in the Code Enforcement Officer by law or local ordinance and shall be subject to the jurisdiction and control of the Manager. The Code Enforcement Officer may be appointed to the office of Fire Official by the Borough Manager. The salary shall be as provided for in the Salary Ordinance. This office may be combined with the office of Zoning Officer.

A motion was made by Heinrich, seconded by Klimko to introduce on final passage Ordinance 2017-05.

ROLL CALL: Heinrich, Klimko, Jones, Noone, Thompson, Valle, Higgins

Ayes: 7 Nays: 0

Motion Carried

Mayor Higgins opened the public portion of Ordinance 2017-05. Seeing no one, a motion as made by Valle, seconded by Kimko, to close the public portion of Ordinance 2017-05.

ROLL CALL: Valle, Klimko, Heinrich, Jones, Noone, Thompson, Higgins

Ayes: 7 Nays: 0

Motion Carried

A motion was made by Heinrich, seconded by Klimko, to adopt Ordinance 2017-05 on second reading.

ROLL CALL: Heinrich, Klimko, Jones, Noone, Thompson, Valle, Higgins

Ayes: 7 Nays: 0

Motion Carried

Ordinance 2017-06 – An Ordinance Amending Ordinance 8-2015 Fixing the Salaries of the Officers and Employees of the Borough of Washington, County of Warren and State of New Jersey (Introduction)

**ORDINANCE 2017-06
BOROUGH OF WASHINGTON
WARREN COUNTY**

**AN ORDINANCE AMENDING ORDINANCE 8-2015 FIXING THE SALARIES
OF THE OFFICERS AND EMPLOYEES OF THE BOROUGH OF WASHINGTON, COUNTY OF
WARREN AND STATE OF NEW JERSEY.**

WHEREAS, the Governing Body of the Borough of Washington desires to amend the 2016 Salary Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Washington, Warren County, New Jersey, that the following salaries and rates of compensation shall be amended or added as follows:

Section 1

Council Members \$2,500.00-\$3,500.00 AN

Mayor \$3,000.00-\$4,000.00 AN

Stipend for Machine, Equipment and Vehicle Maintenance and Repair \$6,000.00-\$8,000.00 AN

Section 2

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section of clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3

Repealer. Any Ordinance or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, that Ordinance No. 8-2015 be and hereby amended; and

BE IT FURTHER ORDAINED this Ordinance shall take effect immediately after final passage, approval and publication as provided by law.

A motion was made by Heinrich, seconded by Jones, to introduce Ordinance 2017-06.

ROLL CALL: Heinrich, Jones, Klimko, Noone, Thompson, Valle, Higgins
Ayes: 7 Nays: 0
Motion Carried

The Clerk read Ordinance 2017-06 by title only. A motion was made by Heinrich, seconded by Jones, to introduce Ordinance 2017-06 on first reading.

ROLL CALL: Heinrich, Jones, Klimko, Noone, Thompson, Valle, Higgins
Ayes: 7 Nays: 0
Motion Carried

The Clerk stated the public hearing of Ordinance 2017-06 will be held on May 16, 2017 and the advertisement of the public hearing will be published in the Star Gazette on April 28, 2017.

A motion was made by Heinrich, seconded by Jones, to approve the advertisement of the public hearing.

Ayes: 7 Nays: 0
Motion Carried

Ordinance 2017-07 – An Ordinance to Establish Standards for the Registration and Maintenance of Vacant and Abandoned Residential Properties in Foreclosure by Creditors

ORDINANCE 2017-07

AN ORDINANCE TO ESTABLISH STANDARDS FOR THE REGISTRATION AND MAINTENANCE OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES IN FORECLOSURE BY CREDITORS

WHEREAS, mortgage foreclosures often result in the abandonment and neglect of residential properties; and

WHEREAS, P.L. 2014, c. 35, authorizes municipalities to adopt ordinances for the purpose of regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties for which a creditor has filed an action to foreclose; and

WHEREAS, it is in the public interest for the Borough of Washington to establish a mechanism to identify and track vacant and abandoned residential properties in the Borough which are in foreclosure, to establish standards for the maintenance of those properties and to enforce those standards of maintenance;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Washington, County of Warren and State of New Jersey as follows:

Section 1

A new section § 25-18. is to be added to the Code of the Borough of Washington entitled “Registration and Maintenance of Vacant and Abandoned Properties” as follows:

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

ABANDONED PROPERTY — As defined in accordance with the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall mean the following:

- (1) Except as provided in Section 6 of P.L. 2003, c. 210 (N.J.S.A. 55:19-83), any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the public officer that:
 - (a) The property is in need of rehabilitation in the reasonable judgment of the public officer, and no rehabilitation has taken place during that six-month period;
 - (b) Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the public officer pursuant to this section;
 - (c) At least one installment of property tax remains unpaid and delinquent on that property in accordance with Chapter 4 of Title 54 of the Revised Statutes as of the date of a determination by the public officer pursuant to this section; or

- (d) The property has been determined to be a nuisance by the public officer in accordance with Section 5 of P.L. 2003, c. 210 (N.J.S.A. 55:19-82).
- (2) A property which contains both residential and non-residential space may be considered abandoned pursuant to P.L. 2003, c. 210 (N.J.S.A. 55:19-78 et seq.) so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the public officer and the property meets the criteria of either Subsection (1)(a) or Subsection (1)(d) of this Subsection A.

EVIDENCE OF VACANCY —

- (1) Any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is or has been vacant for three or more months. Such evidence would include, but is not limited to, evidence of the existence of two or more of the following conditions at a property: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past-due utility notices or disconnected utilities; accumulation of trash, junk or debris; the absence of window coverings such as curtains, blinds or shutters; the absence of furnishings or personal items consistent with residential habitation; statements by neighbors, delivery agents, or government employees that the property is vacant or abandoned; infestation by insects, vermin, rats or other pests; windows or entrances that are boarded up or closed off; multiple window panes that are damaged, broken or unrepaired; doors that are smashed, broken, unhinged or continuously unlocked; or any uncorrected violation of a municipal building, housing or similar code during the preceding year.
- (2) Property determined to be "abandoned property" in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall also be deemed to be vacant property for the purposes of this section.

OWNER — Shall include the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008, c. 127, § 17), or any other entity determined by the Borough of Washington to have authority to act with respect to the property.

VACANT PROPERTY — Any building used or to be used as a residence which is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased for a period of at least three months, and any commercial property that has not been legally occupied or at which substantially all lawful construction operations have ceased for a period of at least three months, and which exhibits evidence of vacancy such that a reasonable person would believe that the property is vacant. Any property that contains all building systems in working order, is being maintained on a regular basis, has not been cited by the Township for any violation of municipal ordinance within such time and is being actively marketed by its owner for sale or rental shall not be deemed vacant.

B. General requirements.

- (1) The owner of any vacant or abandoned property as defined herein shall, within 30 days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later; or within ten (10) calendar days of receipt of notice from the Borough, and annually thereafter, file a registration statement for each such vacant property with the Borough Clerk on forms provided by the Office the Clerk for such purposes. The registration shall remain valid until the end of the calendar year. The owner shall be required to renew the registration annually, no later than January 31, as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed in Subsection D of this section for each vacant property registered. Any failure to receive notice from the Borough shall not constitute grounds for failing to register the aforesaid properties.
- (2) Any owner of any building that meets the definition of abandoned or "vacant property" shall file a registration statement for that property on or before September 1, 2017. The registration statement shall include the information required under Subsection C of this section, as well as any additional information that the Clerk may reasonably require.
- (3) The owner shall notify the Clerk within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the Clerk for such purpose.
- (4) The registration statement shall be deemed prima facie proof of the statement therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough of Washington against the owner or owners of the building.

C. Registration statement requirements; property inspection.

- (1) After filing a registration statement or a renewal of a registration statement, the owner of any vacant or abandoned property shall provide access to the Borough of Washington Code Enforcement Official if requested, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. If an inspection is required of the interior of the property due to complaints or other cause, the fee for such inspection shall be the same as that for a certificate of occupancy inspection as provided in the applicable provisions of the Code of the Borough of Washington.
- (2) The registration statement shall include the name, street address, email address and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding, on behalf of such owner or owners in connection with the enforcement of any applicable code. The designated agent must have a contact number that will be available 24 hours per day on an emergency basis. The statement shall also include the name of the person responsible for maintaining and securing the property, if different from the designated agent.
- (3) An owner who is a natural person and who meets the requirements of this section as to availability of a contact number on a twenty-four-hour emergency basis may designate himself or herself as agent.

- (4) By designating an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purpose of this section until the owner notifies the Borough of Washington of a change of the authorized agent or until the owner files a new annual registration statement. The designation of an authorized agent in no way releases the owner from any requirement of this section.

- D. Fee schedule. The initial registration fee for each building shall be \$500. The fee for the first renewal is \$1,500. The fee for any subsequent renewal is \$3,000. After five years, the registration fee shall be \$5,000.

Vacant and Abandoned Property Registration Fee Schedule

Registration	Fee
Initial registration	\$500
First renewal	\$1,500
Any subsequent renewal up to five years	\$3,000
After five years	\$5,000

- E. Requirements for owners of vacant and abandoned property. The owner of any building that has become vacant and abandoned property, and any person maintaining, operating or collecting rent for any such building that has become vacant, shall, immediately:

- (1) Post a sign affixed to the inside of the building indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process (if designated pursuant to Subsection C of this section), and the person responsible for the day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 15 inches by 17 inches; and
- (2) Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Code of the Borough of Washington and maintain the sign required in Subsection E(1) above until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete; and
- (3) Make provision for the maintenance of the lawn and yard, including regular grass cutting as required by the applicable provisions of the Code of the Borough of Washington; and

- (4) Make provision for the cessation of the delivery of mail, newspapers and circulars to the property, including having the property listed on the exclusion list maintained by the Borough of Washington Clerk for the delivery of circulars and advertisements to the property; and
- (5) Make provision for the winterizing of the property by the cessation of water service to the property and the draining of water lines; and
- (6) Make provision for the cessation of electric or gas utility services to the property; and
- (7) Make provision for the regular maintenance of the exterior of the property.

F. Administration. The Borough of Washington Mayor and Council may issue rules and regulations for the administration of the provisions of this section.

G. Violations and penalties.

- (1) Any owner who is not in full compliance with this section or who otherwise violates any provision of this section or of the rules and regulations issued hereunder shall be subject to a fine of \$1,500.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this section shall be recoverable from the owner and shall be a lien on the property.
- (2) For purposes of this section, failure to file a registration statement in time, failure to provide correct information on the registration statement, failure to comply with the provisions of Subsection E of this section, or such other matters as may be established by the rules and regulations of the Council of the Borough of Washington shall be deemed to be violation of this section.

H. Compliance with other provisions. Nothing in this section is intended to nor shall be read to conflict or prevent the Borough of Washington from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Code of the Borough of Washington and/or the Uniform Construction Code. Further, any action taken under any such code provision other than the demolition of a structure shall not relieve an owner from its obligations under this section.

I REPEAL

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

II SEVERABILITY

If any section, subsection, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

III EFFECTIVE DATE

This Ordinance shall take effect 20 days after final passage and publication according to law.

A motion was made by Noone, seconded by Thompson, to introduce Ordinance 2017-07.

ROLL CALL: Noone, Thompson, Heinrich, Jones, Klimko, Valle, Higgins
Ayes: 7 Nays: 0
Motion Carried

The Clerk read Ordinance 2017-07 by title only. A motion was made by Heinrich, seconded by Thompson, to introduce Ordinance 2017-07 on first reading.

ROLL CALL: Heinrich, Thompson, Jones, Klimko, Noone, Valle, Higgins
Ayes: 7 Nays: 0
Motion Carried

The Clerk stated the public hearing of Ordinance 2017-07 will be held on May 16, 2017 and the advertisement of the public hearing will be published in the Star Gazette on April 28, 2017.

A motion was made by Noone, seconded by Klimko, to approve the advertisement of the public hearing.

Ayes: 7 Nays: 0
Motion Carried

Ordinance 2017-08 – An Ordinance Providing Funding for Various Capital Purposes for the Borough of Washington and Appropriating \$400,000 for Such Purposes

**ORDINANCE NO. 2017-08
BOROUGH OF WASHINGTON**

**AN ORDINANCE PROVIDING FUNDING FOR VARIOUS CAPITAL PURPOSES
FOR THE BOROUGH OF WASHINGTON AND APPROPRIATING \$400,000 FOR
SUCH PURPOSE.**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WASHINGTON, IN THE COUNTY OF WARREN AND STATE OF NEW JERSEY, AS FOLLOWS:

Section 1. The Borough of Washington, in the County of Warren, New Jersey, authorizes various capital improvements to be undertaken, including but not limited to Library Building improvements, various road improvements, acquisition of computer equipment and acquisition of a back hoe for the Department of Public Works for the Borough of Washington, to be funded from the sources specified in Section 2 of the Ordinance.

Section 2. The amount of \$400,000 is hereby appropriated for the purposes stated in Section 1 of the Ordinance and which amount was funded from the Capital Improvement Fund in the amount of \$400,000.

Section 3. In connection with the purpose and the amount authorized in Sections 1 and 2 hereof, the Borough determines the purpose described in Section 1 hereof is not a Current Expense and is an improvement which the Borough of Washington may lawfully make as a general improvement.

Section 4. All ordinances or parts of ordinances which are inconsistent with the terms of this Ordinance be and the same are hereby repealed to the extent of their inconsistency.

Section 5. This Ordinance shall take effect immediately upon due passage and publication according to law.

A motion was made by Noone, seconded by Jones, to introduce Ordinance 2017-08.

ROLL CALL: Noone, Jones, Heinrich, Klimko, Thompson, Valle, Higgins

Ayes: 7 Nays: 0

Motion Carried

The Clerk read Ordinance 2017-08 by title only. A motion was made by Noone, seconded by Klimko, to introduce Ordinance 2017-08 on first reading.

ROLL CALL: Noone, Klimko, Heinrich, Jones, Thompson, Valle, Higgins

Ayes: 7 Nays: 0

Motion Carried

The Clerk stated the public hearing of Ordinance 2017-08 will be held on May 16, 2017 and the advertisement of the public hearing will be published in the Star Gazette on April 28, 2017.

A motion was made by Noone, seconded by Heinrich, to approve the advertisement of the public hearing.

Ayes: 7 Nays: 0

Motion Carried

NEW BUSINESS

Resolution 2017-98 – Resolution for Redemption of Tax Certificate as per NJSA 54:5 – Block 101.01, Lot 1

RESOLUTION #98 -2017

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 21, 2016 to Arthur

Frustaci, 712 Rugby Road, Phillipsburg, NJ 08865, in the amount of \$148.35 for taxes or other municipal liens assessed for the year 2015 in the name of Colon, Rafael as supposed owner, and in said assessment and sale were described as 6 Ramapo Way, Block 101.01 Lot 1, which sale was evidenced by Certificate #16-00084; and

WHEREAS, I, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 3-30-17 and before the right to redeem was cut off, as provided by law, EastWest Bank on behalf of Lereta Tax Service claiming to have an interest in said lands, did redeem said lands claimed by Arthur Frustaci by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$830.81, which is the amount necessary to redeem Tax Sale Certificate #16-00084.

NOW THEREFORE BE IT RESOLVED, on this 18th day of April, 2017 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Arthur Frustaci, 712 Rugby Road, Phillipsburg, NJ 08865 in the **amount of \$1,130.81** (This amount consists of \$830.81 Certificate Amount redeemed + \$300.00 Premium).

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 101.01 Lot 1 from the tax office records.

Resolution 2017-98 was moved on a motion by Noone, seconded by Heinrich, and approved.

ROLL CALL: Noone, Heinrich, Jones, Klimko, Thompson, Valle, Higgins

Ayes: 7; Nays: 0

Motion Carried

Resolution 2017-99 – Resolution for Redemption of Tax Certificate as per NJSA 54:5 – Block 15, Lot 2

RESOLUTION #99-2017

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 21, 2016 to FWDSL & Associates LP, 17 W. Cliff St., Somerville, NJ 08876, in the amount of \$655.06 for taxes or other municipal liens assessed for the year 2015 in the name of Wolfe, Michael D. II & Kristin A. as supposed owners, and in said assessment and sale were described as 61 Carlton Avenue, Block 16 Lot 2, which sale was evidenced by certificate #16-00022; and

WHEREAS, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 4-4-17 and before the right to redeem was cut off, as provided by law, PHH Mortgage claiming to have an interest in said lands, did redeem said lands claimed by FWDSL & Associates LP by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1,350.67 which is the amount necessary to redeem Tax Sale Certificate #16-00022.

NOW THEREFORE BE IT RESOLVED, on this 18th day of April, 2017 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to FWDSL & Associates LP, 17 W. Cliff St., Somerville, NJ 08876 in the amount of **\$2,650.67** (This consists of \$1,350.67 Certificate Amount redeemed + \$1,300.00 Premium).

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 16 Lot 2 from the tax office records.

Resolution 2017-99 was moved on a motion by Noone, seconded by Heinrich, and approved.

ROLL CALL: Noone, Heinrich, Jones, Klimko, Thompson, Valle, Higgins

Ayes: 7; Nays: 0

Motion Carried

Resolution 2017-100 – Resolution Authorizing Purchase of Caterpillar 420F2IT Backhoe

RESOLUTION 2017-100

RESOLUTION AUTHORIZING PURCHASE OF CATERPILLAR 420F2IT BACKHOE

WHEREAS, the Borough's current Ford Model 555B Backhoe is over 30 years old and has no further operational value to the Borough; and

WHEREAS, the Borough desires to purchase a new Caterpillar 420F2IT Backhoe for public works operations; and

WHEREAS, Public Contract Law 40A: 11-4 requires that every contract awarded by the contracting agent for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the governing body; and

WHEREAS, the State of New Jersey (State) and/or the Educational Services Commission of New Jersey (ESCNJ) have awarded contracts to various vendors as successful bidders for State and ESCNJ contracts; and

WHEREAS, the Borough is a member of the Educational Services Commission of New Jersey (ESCNJ) New Jersey State Approved Cooperative Pricing System (#65MCESCCPS); and

WHEREAS, the Caterpillar 420F2IT Backhoe is available for purchase under MRESC # 15/16-08; and

WHEREAS, funds are available for the purchase of said purchases through funds appropriated as attached on certification of availability of funds by the Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Washington, County of Warren, State of New Jersey, that the purchase of a Caterpillar 420F2IT Backhoe from Foley with offices located at 855 Centennial Ave, Piscataway Township, NJ 08854 under MRESC Contract #15/16-08 at a price of \$123,384.76 is hereby approved and authorized.

Resolution 2017-100 was moved on a motion by Noone, seconded by Jones, and approved.

ROLL CALL: Noone, Jones, Heinrich, Klimko, Thomson, Valle, Higgins
Ayes: 7; Nays: 0
Motion Carried

Resolution 2017-101 – Resolution Authorizing Purchase of Caterpillar 910M Compact Wheel Loader

RESOLUTION 2017-101
RESOLUTION AUTHORIZING PURCHASE OF
CATERPILLAR 910M COMPACT WHEEL LOADER

WHEREAS, the Borough wishes to purchase a compact wheel loader better suited for public works uses on the streets and alleyways of the Borough; and

WHEREAS, the Borough desires to purchase a new Caterpillar 910M Compact Wheel Loader for public works operations; and

WHEREAS, Public Contract Law 40A: 11-4 requires that every contract awarded by the contracting agent for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the governing body; and

WHEREAS, the State of New Jersey (State) and/or the Educational Services Commission of New Jersey (ESCNJ) have awarded contracts to various vendors as successful bidders for State and ESCNJ contracts; and

WHEREAS, the Borough is a member of the Educational Services Commission of New Jersey (ESCNJ) New Jersey State Approved Cooperative Pricing System (#65MCESCCPS); and

WHEREAS, the Caterpillar 420F2IT Backhoe is available for purchase under MRESC # 15/16-08; and

WHEREAS, pursuant to N.J.S.A. 40A:11-36(7), in an effort to reduce the total purchase price and to appropriately dispose of a Case 521F that has no further operational value to the Borough, the equipment will be traded in to Foley Caterpillar, Inc. in connection with the purchase of the Caterpillar 910M; and

WHEREAS, funds are available for the purchase of said purchases through funds appropriated as attached on certification of availability of funds by the Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Washington, County of Warren, State of New Jersey, that the purchase of a Caterpillar 420F2IT Backhoe from Foley Caterpillar, Inc. with offices located at 855 Centennial Ave, Piscataway Township, NJ 08854 under MRESC Contract #15/16-08 at a price of \$104,998.60 with a trade-in reduction of \$88,000.00 for a total sale price of \$16,998.60 is hereby approved and authorized.

Resolution 2017-101 was moved on a motion by Jones, seconded by Thompson, and approved.

ROLL CALL: Jones, Thompson, Heinrich, Klimko, Noone, Valle, Higgins
Ayes: 7; Nays: 0
Motion Carried

Resolution 2017-102 – Resolution Adopting a Tort Claim Form Required to be Used for the Filing of Notices of Tort Claims Against the Borough of Washington, County of Warren, State of New Jersey in Accordance with the Provisions of the New Jersey Tort Claims Act, NJSA 59:8-6

RESOLUTION 2017-102
**RESOLUTION ADOPTING A TORT CLAIM FORM REQUIRED TO BE USED
FOR THE FILING OF NOTICES OF TORT CLAIMS AGAINST THE
BOROUGH OF WASHINGTON, COUNTY OF WARREN, STATE OF NEW JERSEY
IN ACCORDANCE WITH THE PROVISIONS OF THE
NEW JERSEY TORT CLAIMS ACT, N.J.S.A. 59:8-6.**

WHEREAS, the New Jersey Tort Claim Act, N.J.S.A. 59:8-6, provides that a public entity may adopt a form to be completed by claimants seeking to file a Notice of Tort Claim against the public entity; and

WHEREAS, the Borough of Washington, County of Warren, State of New Jersey is a public entity covered by the provisions of the New Jersey Tort Claim Act; and

WHEREAS, the Borough of Washington deems it advisable, necessary and in the public interests to adopt a Notice of Tort Claim form in the form attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Washington, in the County of Warren, State of New Jersey authorize that the attached form be adopted as the official Notice of Tort Claim for the Borough of Washington.

BE IT FURTHER RESOLVED, that all persons making claims against the Borough of Washington, pursuant to the New Jersey Tort Claim Act, N.J.S.A. 59:8-1, et seq., be required to complete the form herein adapted as a condition of compliance with the notice requirement of the New Jersey Claims Act.

Resolution 2017-102 was moved on a motion by Jones, seconded by Klimko, and approved.

Ayes: 7; Nays: 0
Motion Carried

Resolution 2017-103 – Resolution Urging the Legislature to Reduce Local Affordable Housing Burdens and Provide Defined Rules and Relief in Providing Thereof

RESOLUTION 2017-103
**RESOLUTION URGING THE LEGISLATURE TO REDUCE LOCAL AFFORDABLE HOUSING
BURDENS AND PROVIDE DEFINED RULES AND RELIEF IN PROVIDING THEREOF**

WHEREAS, municipalities do not have the resources to provide court mandated housing to comply with the Mount Laurel doctrine without proper funding; and

WHEREAS, lawsuits increase housing four-fold through court mandates and without an affirmative defense municipalities can do nothing to stop growth and sprawl, costing millions of dollars outside of local budgets; and

WHEREAS, property taxes must be raised exponentially to pay the costs associated with court mandates and, therefore, population, further overburdening taxpayers; and

WHEREAS, the cumulative impact of years of unfunded court mandates has left many municipalities with serious needs and burdensome property taxes; and

WHEREAS, expected state population growth of .3 percent does not provide sufficient demand to justify court-mandated 30 percent housing supply increase; further congesting our state; and

WHEREAS, New Jersey is already the most densely populated state in the country with 1,195 persons per square mile; and

WHEREAS, the quality of life and public welfare in this municipality will be reduced, negatively impacting infrastructure, water and sewer capacities; school class sizes and school services; municipal services such as volunteer and staffed ambulatory services and fire departments, police departments, public transportation and traffic; and

WHEREAS, the lack of affordable housing and rentals is not due to a lack of units, rather it stems from residents paying property taxes that are unaffordable and increasing by roughly \$700 million annually; and

WHEREAS, the state of New Jersey should relieve the burden of unfunded court mandates and provide statewide parity and predictability in regard to municipal affordable housing obligations; and

WHEREAS, the Assembly is urged to pass Assembly Bill No. 4666 imposing an end-of-year moratorium on all affordable housing litigation; and Assembly Bill No. 4667 establishing the “Affordable Housing Obligation Study Commission” to assist in finding solutions to the affordable housing crisis foisted upon municipalities by the end of the year; and

WHEREAS, it is the responsibility of the state and the legislature to assist municipalities; and

WHEREAS, the time has come to reasonably address affordable housing needs in New Jersey to preserve the integrity of the state and its quality of life; now therefore be it

THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Washington, County of Warren urges the state and the legislature to aid municipalities over-burdened by court-mandated affordable housing; and be it further

BE IT FURTHER RESOLVED that we enthusiastically must reach a solution to affordable housing in New Jersey; and be it finally

BE IT FURTHER RESOLVED, that certified copies of this Resolution be forwarded to Governor Chris Christie, Lieutenant Governor Kim Guadagno, Department of Community Affairs Commissioner Charles A. Richman, New Jersey Senate President Steve Sweeney, New Jersey Senate Republican Leader

Thomas Kean, Jr., New Jersey Assembly Speaker Vincent Prieto, New Jersey Assembly Republican Leader Jon Bramnick, our State Senator Michael Doherty, our Assemblymen John DiMaio and Erik Peterson, and to the New Jersey League of Municipalities.

Resolution 2017-103 was moved on a motion by Klimko, seconded by Jones, and approved.

ROLL CALL: Klimko, Jones, Heinrich, Noone, Thompson, Valle, Higgins
Ayes: 7; Nays: 0
Motion Carried

Resolution 2017-104 – A Resolution for Redemption of Tax Certificate as per NJSA 54:5 – Block 20.01, Lot 3

RESOLUTION #104-2017
A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE
As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 21, 2016 to FWDSL & Associates LP, 17 W. Cliff St., Somerville, NJ 08876, in the amount of \$659.16 for taxes or other municipal liens assessed for the year 2015 in the name of Juste, Pierre A. as supposed owner, and in said assessment and sale were described as 32 W. Johnston St., Block 20.01 Lot 3, which sale was evidenced by certificate #16-00028; and

WHEREAS, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 4-12-17 and before the right to redeem was cut off, as provided by law, Comerica Bank claiming to have an interest in said lands, did redeem said lands claimed by FWDSL & Associates LP by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1,354.85 which is the amount necessary to redeem Tax Sale Certificate #16-00028.

NOW THEREFORE BE IT RESOLVED, on this 18th day of April, 2017 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to FWDSL & Associates LP, 17 W. Cliff St., Somerville, NJ 08876 in the amount of **\$2,654.85** (This consists of \$1,354.85 Certificate Amount redeemed + \$1,300.00 Premium).

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 20.01 Lot 3 from the tax office records.

Resolution 2017-104 was moved on a motion by Heinrich, seconded by Klimko, and approved.

ROLL CALL: Heinrich, Klimko, Jones, Noone, Thompson, Valle, Higgins
Ayes: 7; Nays: 0
Motion Carried

Resolution 2017-105 – A Resolution to Refund Overpayment on 2016 Real Estate Taxes

RESOLUTION #105-2017
A RESOLUTION TO REFUND OVERPAYMENT
ON 2016 REAL ESTATE TAXES

WHEREAS, according to the Tax Collector's records, there is an overpayment of \$3,053.46 on 2016 4th Quarter Regular Taxes paid on property located at 35 Fisher Avenue, also known as Block 84 Lot 25, and in the name of Carletta, Michael; and

WHEREAS, Michael Carletta and Corelogic Tax Service had both paid the 4th Quarter 2016 property taxes, resulting in the overpayment; and

WHEREAS, the Tax Collector has been resolving the matter of tax overpayments and has received a written request from Corelogic Tax Service that the overpayment be refunded to them.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector and Treasurer to refund the amount of \$3,053.46 payable to:

Corelogic
P.O. Box 9220
Coppell, TX 75019-9238
Attn: Refund Department

Resolution 2017-105 was moved on a motion by Heinrich, seconded by Valle, and approved.

ROLL CALL: Heinrich, Valle, Jones, Klimko, Noone, Thompson, Higgins
Ayes: 7; Nays: 0
Motion Carried

Resolution 2017-106 – Resolution Appointing a Registered Municipal Clerk and Local Registrar

RESOLUTION 2017-106
BOROUGH OF WASHINGTON
COUNTY OF WARREN

RESOLUTION APPOINTING
REGISTERED MUNICIPAL CLERK AND LOCAL REGISTRAR

WHEREAS, N.J.S.A. 40A:9-133 requires that every municipality shall have a municipal clerk appointed for a three-year term by the governing body; and

WHEREAS, N.J.S.A. 26:8-11, et. seq. requires the governing body shall also have a Local Registrar;
and

WHEREAS, vacancies have occurred in these positions; and

WHEREAS, Laurie A. Barton has been certified as a Registered Municipal Clerk in accordance with the law of the State of New Jersey;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington that Laurie A. Barton be appointed Municipal Clerk for a term of three (3) years in accordance with N.J.S.A. 40A:9-133.

BE IT FURTHER RESOLVED that Laurie A. Barton will also carry out the duties of Local Registrar

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Division of Local Government Services, Department of Community Affairs.

Resolution 2017-106 was moved on a motion by Klimko, seconded by Valle, and approved.

ROLL CALL: Klimko, Valle, Heinrich, Jones, Noone, Thompson, Higgins
Ayes: 7; Nays: 0
Motion Carried

Council welcomed Laurie Barton who was in the audience. She thanked the Mayor and Council and stated she is looking forward to a great future in the Borough.

VOUCHERS

A motion was made by Heinrich, seconded by Jones, to approve the vouchers and claims in the amount of \$464,063.70.

ROLL CALL: Heinrich, Jones, Klimko, Noone, Thompson, Valle, Higgins
Ayes: 7; Nays: 0; Abstentions: 1 (Thompson – Fire and EMS Only)
Motion Carried

MEETING RECAP

M. Hall will work on a proclamation with G. Andwati and get the status of the new Washington Borough sign. M. Hall explained the next steps regarding abandoned and foreclosed properties.

COUNCIL REMARKS

Councilman Jones will work with M. Hall to purchase the required safety equipment needed for DPW.

Councilwoman Klimko stated the Recreation Commission's Easter Egg Hunt was a huge success.

Deputy Mayor Heinrich welcomed Laurie Barton.

Councilwoman Noone is pleased the ordinance for abandoned and foreclosed properties is underway.

Councilwoman Valle also welcomed Laurie Barton and agreed the Egg Hunt was a success.

Mayor Higgins stated he spoke at the Warren County Community College regarding the growing opioid heroin epidemic in Warren County. The Borough will have an area dedicated on the upcoming webpage for addiction services. The Washington Emergency Squad was presented with a certificate in appreciation of saving the lives of overdose victims. Mayor Higgins noted April is National Prevention of Cruelty to Animals Month as well as Motorcycle Awareness Month.

Council entered into Executive Session after a short recess.

EXECUTIVE SESSION

A motion was made by Jones, seconded by Heinrich, to approve Resolution 2017-107 - Authorizing Executive Session for the purpose of discussing a pending litigation matter, contract matters and a personnel matter at 7:55 pm.

Ayes: 7 Nays: 0

Motion Carried

RESOLUTION # 2017-107 **AUTHORIZING EXECUTIVE SESSION**

WHEREAS, the Open Public Meetings Act; *N.J.S.A. 10:4-6 et seq.*, declares it to be the public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

WHEREAS, the Open Public Meetings Act also recognizes exceptions to the right of the public to attend portions of such meetings; and

WHEREAS, the Mayor and Council find it necessary to conduct an executive session closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

WHEREAS, the Mayor and Council will reconvene in public session at the conclusion of the executive session;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey that they will conduct an executive session to discuss the following topic(s) as permitted by *N.J.S.A. 40:4-12*:

_____A matter which Federal Law, State Statute or Rule of Court requires be kept confidential or excluded from discussion in public

(Provision relied upon: _____);

_____A matter where the release of information would impair a right to receive funds from the federal government;

_____A matter whose disclosure would constitute an unwarranted invasion of individual privacy;

_____A collective bargaining agreement, or the terms and conditions thereof (Specify contract: _____);
_____A matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed; Real Estate Acquisitions
_____Tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;
_____Investigations of violations or possible violations of the law;
___X___Pending or anticipated litigation or contract negotiation in which the public body is or may become a party; (The general nature of the litigation or contract negotiations is: ___ The public disclosure of such information at this time would have a potentially negative impact on the municipality's position in the litigation or negotiation; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.)
_____Matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; (The general nature of the matter is: _____

_____ OR _____ the public disclosure of such information at this time would have a potentially negative impact on the municipality's position with respect to the matter being discussed; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.);
___X___Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is: _____ the public disclosure of such information at this time would violate the employee(s) privacy rights; therefore this information will be withheld until such time as the matter is concluded or the threat to privacy rights no longer exists.;
_____Deliberation occurring after a public hearing that may result in the imposition of a specific civil penalty or loss of a license or permit;

BE IT FURTHER RESOLVED that the Mayor and Council hereby declare that their discussion of the subject(s) identified above may be made public at a time when the Borough Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Borough or any other entity with respect to said discussion.

BE IT FURTHER RESOLVED that the Mayor and Council, for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place.

A motion was made by Jones, seconded by Noone, to come out of Executive Session at 9:28 pm.

Ayes: 7 Nays: 0
Motion Carried

Resolution 2017-108 – Resolution Authorizing (1) Negotiation of an Amendment to Redeveloper’s Agreement; (2) Amendment to Affordable Housing Trust Fund Spending Plan; (3) Expenditure of Affordable Housing Trust Fund Monies; and (4) Negotiation of an Agreement Pursuant to the New Jersey Long Term Tax Exemption Law

**BOROUGH OF WASHINGTON
COUNTY OF WARREN
RESOLUTION 2017-108**

RESOLUTION AUTHORIZING

**(1) NEGOTIATION OF AN AMENDMENT TO REDEVELOPER’S AGREEMENT;
(2) AMENDMENT TO AFFORDABLE HOUSING TRUST FUND SPENDING PLAN;
(3) EXPENDITURE OF AFFORDABLE HOUSING TRUST FUND MONIES; AND (4)
NEGOTIATION OF AN AGREEMENT PURSUANT TO THE NEW JERSEY LONG TERM
TAX EXEMPTION LAW**

WHEREAS, the Borough of Washington has filed a Declaratory Judgment Action in the Superior Court of New Jersey, Hunterdon County, in furtherance of the Supreme Court’s March 10, 2015, decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”), which was assigned to the Honorable Thomas C. Miller P.J. Cv.; and

WHEREAS, the Borough anticipated that as part of that litigation, it will be assigned, for the first time, a prospective affordable housing obligation; and

WHEREAS, the Borough has identified Block 95, Lots 3 and 4, which have been merged in a single Lot 4 (the “Property”), located in the Washington Avenue Core District of the Borough Redevelopment Plan and owned by Jade Partners Washington, LLC (the “Redeveloper”) as a suitable site on which to provide for affordable housing; and

WHEREAS, the Redeveloper received preliminary and final site plan approval with variance relief and conditions from the Borough of Washington Planning Board (the “Planning Board”) pursuant to a resolution adopted on January 13, 2014, memorializing the Board’s action on December 9, 2013 and amended pursuant to a resolution adopted on June 9, 2014, memorializing the Board’s action on May 12, 2014 and further amended pursuant to a resolution adopted on September 8, 2014 memorializing the Board’s action on August 11, 2014 (collectively, the “Resolutions”) for the redevelopment of the Property consisting of demolition of the current structures on the Property and construction of a four story mixed use building of approximately 15,344 square feet with fifty (50) residential apartment units; and

WHEREAS, the Redeveloper entered into a Redeveloper’s Agreement with the Borough dated September 16, 2014, which was amended on August 16, 2016 by Borough Council Resolution #127-16, setting forth the rights, duties and obligations of the parties in connection with the Approval and approved Plans (collectively, “Redeveloper’s Agreement”); and

WHEREAS, neither the Resolutions nor the Redeveloper's Agreement require the Redeveloper to provide a set aside for affordable housing; and

WHEREAS, the Redeveloper has proposed to set aside twenty percent (20%) of the proposed fifty units on the Property (i.e. ten units) and deed restrict such for rental affordable housing in exchange for a \$30,000 per unit contribution from the Borough's Affordable Housing Trust Fund; and

WHEREAS, N.J.A.C. 5:93-8.16 provides that "A municipality may use revenues collected from development fees for any activity approved by the Council for addressing the municipal fair share. Such activities include, but are not limited to: rehabilitation, *new construction*, RCAs, ECHO housing, purchase of land for low and moderate income housing, improvement of land to be used for low and moderate income housing, extensions and/or improvements of roads and infrastructure to low and moderate income housing sites, assistance designed to render units to be more affordable and administration of the implementation of the housing element." [emphasis added]; and

WHEREAS, due to the above-referenced Declaratory Judgment Action and the Supreme Court Decision, the Borough will be required to receive approval from the Superior Court to amend its affordable housing spending plan to disburse funds under this Agreement; and

WHEREAS, the Borough desires to provide Redeveloper with such funds and the Redeveloper desires to proceed with the Redevelopment of the Property and to install the improvements in accordance with the Approval and approved Plans; and

WHEREAS, additionally, the Borough and Redeveloper have determined that it is in the best interest of all parties to amend the Redeveloper's Agreement to enter into an agreement pursuant to the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et seq.*; and

WHEREAS, pursuant to Ordinance #5-2013, Resolution #198-2013, and the First Amendment to the Redeveloper's Agreement, the Borough agreed to sell to Redeveloper a certain parking lot deemed to be surplus property and designated as Block 95, Lot 31 ("Parking Lot"); and

WHEREAS, due to financial circumstances, the closing on the sale of the Parking Lot was not completed in the agreed upon time; and

WHEREAS, the Borough Council discussed this matter in executive session on April 18, 2017;

WHEREAS, during such discussions, concerns arose regarding availability of parking for Borough residents if the Parking Lot is sold to Redeveloper; and

WHEREAS, the Borough Council agreed to monitor the amount of parking needed in the Parking Lot for Borough residents over a two-week period in order to negotiate an agreement regarding sale and use of the Parking Lot with the Redeveloper; and

WHEREAS, the Borough and Redeveloper wish to amend the existing Redeveloper's Agreement to reflect the new agreements regarding the provision of affordable housing units, the sale of the Parking Lot, and the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq.; and

WHEREAS, any agreement of the Borough to provide monies from the Affordable Housing Trust Fund or enter into an agreement pursuant to the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. shall be contingent upon negotiating a mutually agreeable contract for the sale of the Parking Lot; and

WHEREAS, the agreement that the Borough provide the requested funds and an agreement pursuant to the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. is contingent upon the Borough and Redeveloper negotiating mutually agreeable terms of a Second Amended Redeveloper's Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington that the Borough Council authorizes the expenditures as set forth above pending negotiation of a mutually agreeable amendment to the Redeveloper's Agreement, negotiation of a mutually agreeable contract for sale of the Parking Lot, and approval by the Court of such expenditure; and

BE IT FURTHER RESOLVED that the Mayor and Borough Council of the Borough of Washington request that the Court review and approve such amendment to its Affordable Housing Spending Plan; and

BE IT FURTHER RESOLVED, that the Mayor and Borough Council authorizes entering into an agreement with the Redeveloper pursuant to the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., pending negotiation of a mutually agreeable amendment to the Redeveloper's Agreement, negotiation of a mutually agreeable contract for sale of the Parking Lot, and approval by the Court of such expenditure; and

BE IT FURTHER RESOLVED, that the Mayor and Borough Council authorizes the Borough Attorney to prepare the necessary documents for review and approval of the Mayor and Borough Council.

Resolution 2017-108 was moved on a motion by Noone, seconded by Jones, pending negotiation of an agreement regarding the sale of the parking lot and pending negotiation of a finalized amended Redeveloper's Agreement.

ROLL CALL: Noone, Jones, Heinrich, Klimko, Thompson, Valle, Higgins

Ayes: 7; Nays: 0

Motion Carried

ADJOURNMENT

Hearing no further business, a motion was made by Heinrich, seconded by Jones, to adjourn the meeting at 9:30 pm.

Ayes: 7 Nays: 0

Motion Carried

Mayor David Higgins

Ann Kilduff, RMC Borough Clerk